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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68799; File No. SR-NASDAQ-2013-015)

February 1, 2013

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to NASDAQ Rule 4120

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on January 24, 2013, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The NASDAQ Stock Market LLC proposes to correct an erroneous deletion from NASDAQ Rule 4120(c)(7)(B) related to the randomization period conducted prior to the IPO Cross under NASDAQ Rule 4753. The Exchange has designated the proposed changes herein as immediately effective.

The text of the proposed rule change is available on the Exchange's website at http://nasdaq.cchwallstreet.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange hereby amends NASDAQ Rule 4120(c)(7)(B) which governs the orderly launch of trading in initial public offerings ("IPOs") of NASDAQ-listed securities. Specifically, NASDAQ is amending Rule 4120(c)(7)(B) to insert language that describes the randomization period of zero to fifteen seconds that automatically occurs prior to the IPO Cross set forth in NASDAQ Rule 4753. The randomization period is designed to prevent gaming of the IPO Cross by delaying for a variable amount of time the precise moment of execution of each IPO Cross. Although NASDAQ's execution system currently includes and for years has included a randomization period for each IPO Cross, the language describing the randomization period was erroneously removed from Rule 4120(c)(7)(B).

On August 20, 2007, NASDAQ filed SR-NASDAQ-2007-073 ("Original Halt Cross Filing") which, among other things, removed from Rule 4120(b)(7)(A) the rule language accurately describing the randomization period prior to the launch of the NASDAQ Halt Cross. The purpose section of the Original Halt Cross Filing stated as a rationale that:

> The randomization period was designed to deter market participants from timing their participation in a way that harmed other participants. This provision, however, results in other markets trading after the issue has re-opened but prior to NASDAQ restarting trading using the Halt

> Cross. NASDAQ believe[s] that it is confusing and disruptive to market participants for NASDAQ, the listing market, to continue a halt after other market centers have resumed trading and, therefore, proposes to eliminate the random period prior to the execution of the Halt Cross.

This explanation focuses on Halt Crosses that NASDAQ initiates following halts of stocks that have previously traded in the secondary market; the reasoning does not apply in the context of an IPO launch, as there is no trading on other markets until the IPO Cross is completed.

Nevertheless, Amendment 1 to SR-NASDAQ-2007-073 ("Amended Halt Cross Filing"), which superseded the Original Halt Cross Filing, erroneously removed the language accurately describing the randomization period for each IPO Cross.[3] The Amended Halt Cross filing, among other things, removed the language describing the randomization period from both the provisions governing the Halt Cross (Rule 4120(c)(7)(A)) and the IPO Cross (Rule 4120(c)(7)(B)). The Amended Halt Cross Filing offered no rationale for removing the randomization period prior to the IPO Cross. In actuality, NASDAQ did not intend to remove the randomization period and, in fact, the NASDAQ system has continued through the present to include a randomization period prior to each IPO Cross. Accordingly, NASDAQ is proposing to re-instate in Rule 4120(c)(7)(B) language that accurately describes the randomization period that is identical to the language it erroneously removed via the Amended Halt Cross Filing.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(5) of the Act,[5] in particular, in that it is

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[3] See Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify the Halt Cross Process, Securities Exchange Act Release No. 56348 (Aug. 31, 2007); 72 FR 51693 (Sept. 6, 2007).

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change promotes this goal by accurately describing an element of NASDAQ's trading system that already protects investors and the public interest by ensuring an orderly opening of trading in IPOs of NASDAQ-listed securities. The specific functionality, the randomization period, is designed to and does in fact prevent improper timing by an Exchange member of its participation in the IPO Cross in a manner that could harm other participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange's proposed rule change is unrelated to competition, because it does not change the Exchange's current process and therefore will neither alter the Exchange's competitiveness nor inhibit the ability of any person to compete in the securities markets. Rather, the change is focused solely upon ensuring that NASDAQ's rules accurately describe the process in place to promote the orderly launch of trading following an IPO on NASDAQ.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)[6] of the Act and Rule 19b-4(f)(6)[7] thereunder.

A proposed rule change filed pursuant to Rule 19b-4(f)(6)[8] under the Act normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii)[9] under the Act, the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange can, pursuant to its rules, use the randomization period to prevent improper timing by Exchange members participating in an IPO Cross in a manner that could harm other market participants. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as the randomization period was previously in NASDAQ's rules and is designed to prevent gaming of an IPO Cross by delaying for a variable amount of time the precise moment of execution of each IPO Cross.[10] In addition, the Exchange represented that the NASDAQ system already provides for the randomization period, therefore, waiving the 30-day operative delay will enable NASDAQ to bring its rules and system in alignment quickly, thus reducing the

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[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] 17 CFR 240.19b-4(f)(6).

[9] 17 CFR 240.19b-4(f)(6)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

potential for investor confusion. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[11] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2013-015 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2013-015. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all

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[11] 15 U.S.C. 78s(b)(2)(B).

comments on the Commission's Internet website (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2013-015, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill
Deputy Secretary

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[12] 17 CFR 200.30-3(a)(12).